

IN THE UNITED STATES COURT
FOR THE DISTRICT OF PUERTO RICO

KAYRA M. HERNÁNDEZ,

Plaintiff,

v.

CASA FEBUS, INC., ET AL.,

Defendants.

Civ. No.: 21-1588 (SCC)

OPINION AND ORDER

Pending before the Court is Plaintiff Kayra M. Hernández' motion requesting attorneys' fees totaling \$28, 785.00 and \$1,042.54 in costs (the "Motion"). *See* Docket No. 115. The Motion stands unopposed. After reviewing the documents attached to the request, the Court **GRANTS in part and DENIES in part** the Motion.

I. Analysis

Plaintiff Hernández' request for attorneys' fees and costs comes on the heels of the Court's Order at Docket No. 106.¹ There, the Court adopted Magistrate Judge Marco E. López' Report and Recommendation ("R&R"), *see* Docket No. 97,

¹ That ruling was issued by then presiding Chief Judge Raúl M. Arias Marxuach. This case was subsequently transferred to the undersigned's docket. *See* Docket No. 140.

granting in part Plaintiff Hernández' motion requesting that Defendants be found in contempt and that sanctions be issued against them for failing to comply with the Temporary Restraining Order ("TRO") issued at Docket No. 6, *see* Docket No. 64. According to the Magistrate Judge's findings, Defendants produced some, but not all, of the documents they were supposed to produce per the directives stated in the TRO. In addition to adopting the R&R, the Court specified that Defendants, *inter alia*, had to pay "the attorney's fees Plaintiff incurred in the preparation and prosecution of the motions for contempt." Docket No. 106.

A review of the record shows that, in addition to the motion at Docket No. 64 seeking contempt, Plaintiff Hernández filed a prior motion seeking contempt at Docket No. 29 which also requested the documents that were once again requested at Docket No. 64. The Court granted in part the motion at Docket No. 29 and ordered Defendants to produce the requested documents. *See* Docket No. 61. But Plaintiff Hernández' subsequent filing at Docket No. 64 corroborates that Defendants failed to abide by the Court's directive at Docket No. 61. So, to recapitulate, to obtain the documents Defendants

were supposed to produce since the TRO was issued on December 8, 2021, Plaintiff Hernández had to file a total of two motions seeking contempt and attend an evidentiary hearing that lasted two days to address the motion at Docket No. 64. Albeit multiple Court orders, it appears that Defendants have yet to comply with their obligation to produce the documents listed in the TRO. *See e.g.*, Docket No. 120. But today's ruling is limited to the attorney's fees to be awarded based on the work performed by Plaintiff Hernández' attorneys in connection with the motions at Docket Nos. 29 and 64, in addition to the evidentiary hearing held on July 7, 2022 and July 8, 2022, *see* Docket Nos. 82 and 89.

Courts generally calculate attorney's fees using the lodestar method. *De Jesús Nazario v. Morris Rodríguez*, 554 F.3d 196, 207 (1st Cir. 2009). The lodestar is the product of "multiplying the number of hours productively spent by a reasonable hourly rate[.]" *Id.* "Calculating this amount requires two steps (which may be followed by a final corrective gesture)." *Pérez-Sosa v. Garland*, 22 F.4th 312, 321 (1st Cir. 2022). First, the Court must "calculate the number of hours reasonably expended by the attorneys . . . , excluding those hours that are 'excessive,

redundant, or otherwise unnecessary.’” *Cent. Pension Fund of the Int’l Union of Operating Eng’r & Participating Emps. v. Ray Haluch Gravel Co.*, 745 F.3d 1, 5 (1st Cir. 2014) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983)). Second, the Court is tasked with determining the “reasonable hourly rate or rates—a determination that is often benchmarked to the prevailing rates in the community for lawyers of like qualifications, experience, and competence.” *Id.* The product of steps one and two is the lodestar. The Court may adjust the lodestar up or down based on “the results obtained, and the time and labor required for the efficacious handling of the matter.” *De Jesús Nazario*, 554 F.3d at 207. With these guideposts in mind, the Court turns to itemized lists and accompanying documents submitted by Plaintiff Hernández’ attorneys to determine the attorney’s fees they are entitled to.

a. Attorney Carla Ferrari Lugo

Attorney Carla Ferrari Lugo (“Attorney Ferrari Lugo”) claims she worked “a total of 31.50 hours in the preparation and prosecution of the motions for contempt.” Docket No. 115-1, pg. 1 ¶ 4. After reviewing the tasks described in the timesheet she submitted at Docket No. 115-1, pgs. 3-5, the Court finds her

breakdown of tasks and time spent on the same to be appropriate and not excessive.

Now, on to her billing rate. Attorney Ferrari Lugo claims an hourly billing rate of \$300.00 per hour. Docket No. 115-1, pg. 1 ¶ 6. The Court deems her \$300.00 per hour billing rate to be reasonable. This is a copyright suit and Attorney Ferrari Lugo is an experienced intellectual property attorney with an ample resume handling cases in that field. *See* Docket No. 115-1, pgs. 6-7. She also holds a Master of Laws in Intellectual Property Law from George Washington University School of Law. *See* Docket No. 115-1, pg. 6. So, given her specialized knowledge, vast experience handling intellectual property matters and the fact that Defendants did not oppose her hourly billing rate or tasks completed in connection with the motions seeking contempt, the Court does not find that any corrective adjustments need to be made to the attorney's fees claimed here. Accordingly, the Court awards Attorney Carla Ferrari Lugo attorney's fees in the amount of \$9,450.00.

b. Attorney Verónica Ferraiuoli Hornedo

After adding up the time listed in Attorney Verónica Ferraiuoli Hornedo's ("Attorney Ferraiuoli Hornedo")

timesheet, the same represents that she spent a total of 48.25 hours working on matters pertaining to the motions for contempt. *See* Docket No. 115-2, pgs. 3-6. After reviewing her timesheet, her entries are deemed reasonable for the tasks pertaining to the motions for contempt. As far as her hourly billing rate is concerned, she claims a \$300.00 hourly billing rate. Docket No. 115-2, pg. 2 at ¶ 6. After reviewing Attorney Ferraiuoli Hornedo's academic credentials, time practicing law and previous professional engagements, the Court also finds that her billing rate is reasonable. By the same token, the Court does not find that any corrective adjustments need to be made to the above claimed attorney's fees. Therefore, a total of \$14,475.00 in attorney's fees are awarded to Attorney Ferraiuoli Hornedo.²

The Court next considers other entries included in Attorney Ferraiuoli Hornedo's timesheet that cannot be recovered as attorney's fees. In her timesheet, Attorney Ferraiuoli Hornedo claims additional items that the Court does not deem were authorized by the Order at Docket No. 106. First, she claims a total of 9 hours in the preparation of the motion for attorney's

² The result of 48.25 hours multiplied by \$300.00.

fees currently pending before the Court. *See* Docket No. 115-2, pg. 6. Second, she claims the following costs: \$75.00 spent on serving a subpoena for purposes of the evidentiary hearing, \$889.00 for an airline ticket to travel to the evidentiary hearing and \$78.54 in translation services for exhibits intended for the evidentiary hearing, for a total of \$1,042.54. *Id.*, pg. 7. But the Order at Docket No. 106 did not mention anything about including the time spent on drafting the itemization, detailing the efforts directed at putting together and litigating the motions for contempt as attorney's fees, nor did the Order mention anything about awarding costs. To that end, the attorney's fees requested for the 9 hours spent by Attorney Ferraiuoli Hornedo preparing the motion for attorney's fees and the requests for costs are denied.

c. Attorney Francisco E. Colón Ramírez

Attorney Francisco E. Colón Ramírez ("Attorney Colón Ramírez") claims to have spent 7.20 hours in matters related to the motions for contempt. Docket No. 115-3, pg. 1 ¶ 4. Although Attorney Colón Ramírez' participation in this litigation thus far has been limited to the evidentiary hearing held in connection with the motion at Docket No. 64, his request for attorney's fees

is fair game. After reviewing his timesheet, *see* Docket No. 115-3, pg. 3, the Court finds the time spent vis-à-vis the tasks performed to be reasonable. He also claims an hourly billing rate of \$300.00 per hour. *Id.*, pg. 2 at ¶ 6. Given his over 28 years of experience litigating in federal court and knowledge regarding intellectual property matters, the Court also deems that billing rate as reasonable. *Id.*, pg. 1 ¶ 5. But akin to Attorney Ferraiuoli Hornedo, Attorney Colón Ramírez has also billed for the time spent working on his timesheet in support of the request for attorney's fees. *Id.*, pg. 3 (detailing October 4, 2022 entry for .75 for drafting invoice and the verified statement in support of the motion for attorney's fees). Since such billing was not authorized in the Court's Order at Docket No. 106, the Court subtracts the .75 reportedly spent on such matters from the 7.20 hours claimed, such that his final award for attorney's fees is \$1,935.00.³

II. Conclusion

Accordingly, the Court **GRANTS in part and DENIES in part** Plaintiff Hernandez' motion for attorneys' fees at Docket No. 115. Defendants shall therefore deliver the following:

³ The result of 6.45 hours multiplied by \$300.00.

- A check payable to Ferrari Law PSC for \$ 9, 450.00.

And while the Court awarded attorney's fees to Attorney Ferraiuoli Hornedo in the amount of \$14,475.00 and \$1, 935.00 to Attorney Colón Ramírez, no information was provided as to whom the checks must be made out to. Therefore, by COB on **September 1, 2023**, Plaintiff Hernández shall file an Informative Motion stating to whom those checks should be made out to.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 28th day of August 2023.

S/ SILVIA CARREÑO-COLL
UNITED STATES DISTRICT COURT JUDGE